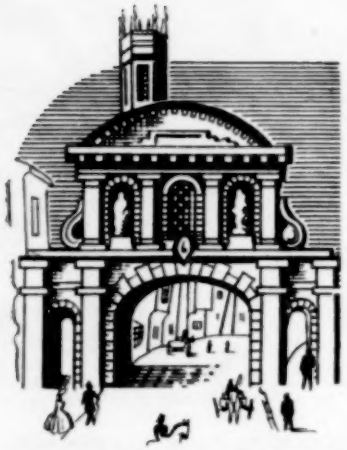

JUSTICE OF THE PEACE & LOCAL GOVERNMENT REVIEW

Saturday, October 1, 1955 Vol. CXIX. No. 40

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

CITY OF COVENTRY

Magistrates' Courts Committee

APPLICATIONS are invited for the appointment of Third Assistant to the Clerk to the Justices. Applicants should possess experience in the work of such an office and be capable of taking or suitable for training to take Courts.

Salary A.P.T. III N.J.C. scale and conditions (£600 × £25—£725, pending national conditions of service for Justices' Clerks' Assistants).

Immediate application to the undersigned.

A. N. MURDOCH, M.A.
Clerk of the Committee.

St. Mary's Hall,
Coventry.

LEICESTERSHIRE MAGISTRATES' COURTS COMMITTEE

APPLICATIONS invited for Senior Assistant to Clerk to the Justices of Ashby-de-la-Zouch Petty Sessional Division. Applicants should have a good knowledge of the work of a Justices' Clerk's Office and be capable of taking Courts (if necessary) without supervision. Salary £560—£640 per annum, according to experience. Applications, stating age, qualifications and experience, with names of two referees, should reach the undersigned at County Offices, Grey Friars, Leicester, not later than 14 days after appearance of this advertisement.

JOHN A. CHATTERTON,
Clerk of the Leicestershire
Magistrates' Courts Committee.

BOROUGH OF HALESOWEN

Deputy Town Clerk

APPLICATIONS are invited from Solicitors with Local Government experience for the above position. Salary £1,105, rising by annual increments of £35 to £1,245 per annum.

Town Clerk due to retire in few years' time.

Applications, stating age, qualifications and experience, and the names and addresses of two persons to whom reference may be made, must be received by the undersigned not later than Saturday, October 8, 1955.

A. BASTERFIELD,
Town Clerk.

Council House,
Halesowen.
September 17, 1955.

BRIERLEY HILL URBAN DISTRICT COUNCIL

Appointment of Legal Assistant

APPLICATIONS are invited for the above appointment in the office of the Clerk of the Council.

Candidates must have had experience in conveyancing and general legal work. Experience in Committee work will be an advantage.

The salary will be within Grade II of the A.P.T. Division of the National Scales of Salaries : £560—£640 per annum.

The Council will provide housing accommodation if required.

Applications, stating age, qualifications, and the nature of the work previously undertaken, and accompanied by copies of two recent testimonials, should reach the undersigned not later than Monday, October 10, 1955.

HERBERT HEX,
Clerk of the Council.

Civic Buildings,
Brierley Hill.

CITY AND COUNTY OF BRISTOL

Assistant Solicitor

APPLICATIONS invited for above appointment at salary in accordance with Grade A.P.T. VII (£900—£1,100) of National Scale. Appointment subject to there months' notice. Experience in advocacy an advantage.

Applications, accompanied by two testimonials, must reach me by October 15, 1955.

ALEXANDER PICKARD,
Town Clerk.

Council House,
Bristol, 1.

MONTGOMERYSHIRE COUNTY COUNCIL

ASSISTANT Solicitor required. Salary Grade National Joint Council Scale (£690 × £30—£900 per annum), according to experience. Applicants should have experience of Conveyancing and Advocacy. Local Government experience desirable but not essential.

Applications, with names of two referees, should reach the undersigned not later than October 15, 1955.

P. E. WHITE,
Clerk of the County Council.

County Offices,
Welshpool.
September 21, 1955.

BOROUGH OF BECCLES

Appointment of Town Clerk

APPLICATIONS are invited from suitably qualified persons for the post of Town Clerk.

The salary and conditions of service will be in accordance with the Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks for a Borough with a population 5/10,000.

The appointment is superannuable, subject to medical examination, and terminable by three months' notice on either side.

Applications, stating age, particulars of experience and qualifications, present and previous appointments, with the names of three persons to whom reference may be made, should reach me not later than October 10, 1955.

Candidates selected for interview will be invited to attend on October 18, 1955.

Canvassing will disqualify.

J. A. SCETTRINO,
Acting Town Clerk.

Municipal Offices,
Beccles.
September 15, 1955.

CITY OF LANCASTER

ASSISTANT Solicitor required, salary Grade £690 per annum rising to £900 per annum. Minimum of £780 per annum if not less than two years' legal experience. National Conditions of Service and Local Government Superannuation Acts apply.

Applications, stating age, date of admission and experience, with names of two referees, to be made to undersigned not later than October 15, 1955.

Canvassing or failure to disclose relationship to member or senior officer of the Council will disqualify.

J. D. WADDELL,
Town Clerk.

Town Hall,
Lancaster.
September 27, 1955.

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Justice of the Peace
and
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NOTES OF THE WEEK

Traffic Signs

The Minister of Transport and Civil Aviation has circulated a draft of new Traffic Signs (Size, Colour and Type) Regulations and of new General Directions as to the use of such signs. A press notice has been issued by the Ministry stating that important changes to the present system of traffic signs are proposed and that the Minister is consulting representative organizations, including local authorities, the police, and road users and manufacturers' associations.

The proposed new regulations prescribe the size, colour and type of traffic signs to be authorized for general use, and these signs are illustrated in colour in the schedules. The General Directions prescribe the circumstances in which signs may be erected, and in which special authority for their erection is required.

These regulations, which cannot come into effect until laid before Parliament, will supersede those made in 1950 and they include a number of signs now in common use which are not dealt with in the 1950 regulations. The inclusion of such signs in the new regulations will make it unnecessary for them to be individually authorized, and highway authorities will have greater freedom to erect signs without first getting the Minister's approval.

The press notice calls attention to a number of instances in which the new regulations propose modifications of existing signs. It is stated that in some cases these will make the signs more like those in use on the Continent. The modifications referred to are to the following signs:

1. The "crossroads" sign. The arms of this sign are to be vertical and horizontal, instead of diagonal. Also, a new sign to indicate a staggered junction is introduced.

2. The "bend" sign is altered so that it gives a clear indication of the nature and direction of the bend. Different signs indicate double or continuing bends.

3. On "school" and "children" signs the torch sign is abolished and pictorial signs are substituted.

4. "Road works" signs (Nos. 156 to 162 in sch. 1) are introduced to give warning that road works are in progress.

5. A new "slow major road ahead" sign indicates clearly that the junction at which it is used is a T junction.

6. Signs to indicate waiting restrictions are modified. Those which indicate a prohibition are in black letters on a yellow background; those which indicate that waiting is limited to a particular time are in white letters on a blue background.

7. Signs giving advance indication of the direction to be taken are illustrated in greater detail and now number 29 in all (428 to 456 in sch. 1).

8. In sch. 2 is embodied for the first time a comprehensive system of carriageway markings. The width of "stop" lines is increased from 5 *in.*, to from 8 to 10 *in.*

9. Moveable signs and flashing beacons—regs. 21 to 23 deal with the circumstances in which they may be used and with other details about them.

Signs previously erected which comply with the existing regulations will continue to be valid after the new regulations come into force except in the case of the more important signs which are modified by the new regulations. In their case the old-type signs will cease to be valid on and after the expiration of two years from the coming into force of the new regulations. This is provided for in reg. 2.

All road users will be interested to see these draft new regulations. In the interests of road safety it is to be hoped that they will be given wide publicity when they are brought into force so that all drivers, in particular, may be fully aware of the meaning of the signs which they authorize.

Young Persons on Licensed Premises

Our attention has been called to a letter which appeared in *The Bucks Free Press* of August 26, in which Miss E. G. Edmonds, a probation officer, urges the need for an amendment of the law relating to the presence of young persons on licensed premises.

There is in s. 126 of the Licensing Act, 1953 (which replaced s. 6 of the Children and Young Persons Act, 1933), a prohibition against children under 14 being in a bar during permitted hours. Section 129 of the same Act provides that intoxicating liquor is not to be sold to a person under 18 for consumption on the premises. The young person who buys or attempts to buy intoxicating liquor commits an offence also. There is an exception as to the sale of beer, porter, cider or perry to a person aged at least 16 if it is for consumption with a meal.

In her letter Miss Edmonds advocates the total prohibition of the presence of young persons under 17 on licensed premises. She argues that the age limit of 14 years now does not appear to relate to anything. The statutory school leaving age has been 15 years for some time, and a boy or girl is a juvenile in the eyes of the law until 17 years, and up to that time can be brought before the juvenile court as in need of care or protection, if circumstances warrant. She admits that no responsible licensee would wish to transgress the law, but she points out that once a juvenile is on the premises it is difficult, if not impossible, to guarantee that there is no illicit consumption.

The letter concludes: "There are other obvious social objections to the presence of juveniles in public houses. Some change in the present unsatisfactory system would I know be welcomed by the police, and parents, and all interested in the welfare of juveniles."

Perquisites or Stolen Property?

Three men charged at Shoreham magistrates' court with stealing a quantity of cable, unearthed when they were engaged on some excavation work, claimed that according to custom the cable was what they called a "perk," and that they were not guilty of stealing when they took it for their own benefit. They were convicted, the chairman stating that the bench were satisfied that the men knew quite well that they were doing wrong.

The state of mind of the defendants was of course the test. If they had honestly though mistakenly believed they were entitled to the cable as a perquisite of the job, they were not guilty of stealing. There would be no fraudulent intent, there would be a claim of right made in good faith, and they would be acting in the belief that they had the consent, implied or specific, of the owner of the property. The magistrates heard a good deal of evidence on the subject of "perks," but were evidently convinced that there was no ground for believing that the defendants acted in good faith. As a matter of fact, the cable that was the subject of the charge was said to be worth £20, which in itself would give rise to suspicion that the men could hardly think they were entitled to it.

In some jobs, articles of little value which the owners do not want are openly treated as perquisites out of which employees may make a little if they can. It would be astonishing if articles of substantial value were recognized as properly to be appropriated in this way.

The Meaning of "Motor Vehicle"

Chesterfield justices had to decide what the chairman described as a very difficult legal problem when a defendant appeared on a summons alleging that he used a motor assisted pedal-cycle without a certificate of insurance. The defendant said he had had nothing but trouble with the motor and it was not working at the time, so he could not have used it. He did not think that he needed a certificate of insurance when he was using the cycle as a pedal cycle only and not using the motor.

The summons was dismissed.

Two High Court decisions have dealt with a similar point. In *Lawrence* v. *Howlett* [1952] 2 All E.R. 74; 116 J.P. 391, a pedal cycle fitted with an auxiliary motor which was out of commission, was held not to be a mechanically propelled vehicle and therefore not a "motor vehicle." The other case was *Floyd* v. *Bush* [1953] 1 All E.R. 265; 117 J.P. 88. The vehicle in question was a pedal cycle fitted with an auxiliary motor which was in efficient working order. The defendant was, however, pedalling the cycle. The Court held that in view of the fact that the motor was in working order, the cycle was a "motor vehicle" within the meaning of the Road Traffic Act, 1930. If, as was apparently the case, the Chesterfield justices found as a fact that the motor was so out of order that it could not be used, their decision was in accordance with *Lawrence* v. *Howlett*. The question is not whether the motor is actually working, but whether it is in working order so as to be capable of use.

Housing Subsidies

The Minister of Housing and Local Government (Mr. Duncan Sandys) is reported as saying at the Annual Conference of the Association of Municipal Corporations at Harrogate that the problem of how to reduce the burden of the housing subsidies was engaging the attention of the Government.

This utterance was made following suggestions that there should be an all-round increase in housing subsidies to take account of the rise in the rates of interest on loans. There has been a great increase in building society advances in the past two years and many people have been buying their houses with the assistance of these loans encouraged by the Government's guarantee schemes. Some of those borrowers think that any increase in interest on their advances is a breach of faith on the part of those concerned and feel correspondingly resentful. The building societies on the other hand point to the shrinkage in their funds due to the withdrawal of investment and say that it is necessary to stop this drain by increasing the rates of interest for the investors.

Certain it is that the housing subsidies already place a severe burden upon the national finances.

The Minister did well to re-emphasize the original purpose of the housing subsidy as being to help those with insufficient income to bridge the gap between the full economic rent and the amount they could reasonably afford to pay so that no one should by reason of poverty, be prevented from having a decent healthy home.

However, everybody knows that there are many people living in rent subsidized council houses who can well afford to pay the economic rent. It is, moreover, unfair to the general body of taxpayers and ratepayers who have to defray the subsidies that this should be so. With a view to rectifying this situation a considerable number of local housing authorities of varying political points of view have, therefore, devised differential rent schemes. For instance the independent council at Solihull (Warwickshire) recently introduced a scheme of this kind on the following lines. The average subsidized rent for a three-bedroom house was 18*s.* a week excluding rates. To this was added a weighted average (taking account of variation in the subsidies) of 10*s.* 10*d.* a week including 2*s.* for increased repair costs. The economic unsubsidized rent of 28*s.* 10*d.* was demanded but relief could be obtained; the sum held available for rent was one-seventh of the tenant's gross income (including overtime) plus 5*s.* for any additional income earner in the household, less 5*s.* for each child. If the wife worked, the first £2 of her wages was considered.

Schemes of this kind ensure that help by subsidy only goes where there is real need of it.

DUTY TO REPORT ACCIDENT UNDER THE ROAD TRAFFIC ACT, 1930

"DOES S. 22 APPLY TO THE DRIVER, AND TO THE DRIVER'S OWN VEHICLE?"

[CONTRIBUTED]

The question of the application of s. 22 of the Road Traffic Act, 1930, where an accident has occurred causing damage only to the driver's own vehicle, has been much canvassed in the columns of this journal of recent years, and differing views as regards its application in such a case have been expressed. This difference of view has been accentuated by the decision of the Divisional Court in *Pagett* v. *Mayo* [1939] 2 All E.R. 362; 103 J.P. 177, in which it was held that damage to a wall caused by an accident occurring owing to the presence of a motor vehicle on a road is not damage caused " to any person, vehicle or animal " within the meaning of this section. Before however discussing these varying views, it will be helpful to see the exact wording of this section, and what the above case has in fact decided.

As regards s. 22, subs. (1) provides: " If in any case, owing to the presence of a motor vehicle on a road, an accident occurs whereby damage or injury is caused to any person, vehicle or animal, the driver of the motor vehicle shall stop and, if required so to do by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle." Subsection (2) provides: " If in the case of any such accident as aforesaid, the driver of the motor vehicle for any reason does not give his name and address to any such person as aforesaid, he shall report the accident at a police station or to a police constable as soon as reasonably practicable, and in any case within 24 hours of the occurrence thereof." Subsection (3) contains a definition of the word " animal " by providing: " In this section, the expression ' animal ' means any horse, cattle, ass, mule, sheep, pig, goat, or dog." And the offence is created by subs. (4) which provides: " If any person fails to comply with this section, he shall be guilty of an offence." As regards the operation of subs. (2), this may be disregarded from the point of view of this article since it has been held in *Green* v. *Dunn* [1953] 1 All E.R. 550, that where the driver of a motor vehicle after such an accident has occurred as comes within the terms of subs. (1) has complied with the requirements of subs. (1), and has given the particulars as therein provided, the obligation to report to the police under subs. (2) does not arise.

Coming now to *Pagett* v. *Mayo* the relevant facts shortly are as follows: The respondent was driving a motor vehicle on a certain road when owing to the presence of the vehicle on that road an accident occurred. The vehicle skidded at a corner and hit a stone wall the property of one AP, and by reason of the accident the wall and the vehicle were damaged. The respondent did not give his name or address to any person having reasonable grounds for so requiring them, nor did he report the accident at any police station or to any police constable either as soon as reasonably practicable or within 24 hours of the occurrence. Upon the hearing of an information preferred against the respondent for having acted in contravention of s. 22 by failing to report an accident in which his motor car had been involved, it was contended on behalf of the appellant (a superintendent of police) that damage had been caused to a certain person, namely the said AP, his wall having been damaged by reason of the accident, and that the respondent, not having given his name and address and not having reported the accident either at a police station or to a police constable as required by s. 22, had committed an offence under that section. On behalf of the respondent it was contended that damage to the wall was not damage or injury to any person, vehicle or animal within the meaning of s. 22, and that accordingly he had committed no offence. The justices being of opinion that the contention of the respondent was right in law dismissed the information. In his judgment holding that the justices were right, and in dismissing an appeal by the appellant superintendent, with which the other two members of the Court agreed, Lord Hewart, C.J., says: " Mr. Etherton, on behalf of the appellant, ingeniously suggested that the words ' any person, vehicle or animal ' in subs. (1) of s. 22 ought to be read as if they were written ' any person, property, vehicle or animal.' If, however, the legislature had intended to include property, nothing would have been easier than to have done so. A question would then have arisen about the use of the word ' vehicle.' Is not a vehicle someone's property? Nor would the difficulty have ceased there. By subs. (3) a definition of the word ' animal ' is given. Horses and the other animals mentioned in the definition are commonly someone's property. Why, it would have been argued, should a special protection have been extended by subs. (3) to those kinds of property, if by subs. (1) all kinds of property were already included? "

It may here be noted that the editorial note to the report of this case in [1939] 2 All E.R. 362 states: " This matter is a question of the construction of the Act so far as it relates to the reporting of accidents, and it is decided that the provision making it unnecessary to report an accident not causing damage to any person, vehicle or animal does not include any property other than the specified classes of property. It would appear also that the term ' vehicle ' does not here include the vehicle causing the damage, even though it is itself damaged." This editorial note is here thus expressing the view that, even although the vehicle causing the damage to the wall is itself damaged, this fact does not bring the case within the ambit of subs. (1); in other words that, if the only damage which is caused by the accident, apart from the damage to property, is the damage to the vehicle causing the damage to property, this is not damage " caused to any person, vehicle or animal " within the meaning of the subsection.

A SCOTTISH CASE

There have been differing views, in the absence of a decision in the English Courts, one way or the other, as regards this one point only, namely, the application of the section to a case where the only damage caused to a vehicle is damage to the vehicle causing the damage to the property concerned, and the driver is summoned for not reporting an accident causing damage to his own vehicle. Recently, however, this very point has come before the Scottish Courts in *R.* v. *Tucker* which came on appeal to the Justiciary Court in which the Judges disagreed, the majority however being of opinion that in such a case a duty to report arose under this section (*see*

Glasgow Herald, June 16, 1955, p. 9). There a Glasgow van driver had been charged with having failed to report an accident as required by s. 22, and according to the complaint the accident occurred because of the presence of his van on a certain roadway on a certain day, when it collided with and knocked down a certain fence in front of a house at a railway level crossing, and damage was also done to the van. At the Sheriffs' Court objection was taken to the relevancy of the charge on the ground that the accident was not one whereby damage was "caused to any person, vehicle or animal" within the meaning of the section, but the sheriff repelled the objection and convicted the appellant, imposing a fine. An appeal by him was dismissed by a majority of the Court, and in his judgment dismissing the appeal the Lord Justice-General (Lord Clyde) said that, as he read the section, its object was to secure reports to the police of accidents occurring on roads, but the contention for the appellant was that, if the only damage or injury which resulted from the accident was to a fence, then there was no obligation on the driver to report the matter to the police. He then referred to, and quoted, the decision in *Pagett* v. *Mayo*, pointing out however that in the case then before the Court, unlike the English case, there was damage to the appellant's own vehicle, and stating that, in his view, that damage was damage "caused to any vehicle" within the meaning of the section. He then went on to say that he, therefore, was of opinion that the sheriff was right in repelling the objection to the complaint, and that it seemed to him that the wide language used in the statute—"any vehicle"—entitled the Court to treat the appellant's vehicle as well as any other vehicle as covered by the section. In agreeing, Lord Russell said that he could only read the words of the section as normal, ordinary words in the sense in which they were used. The complaint appeared to him to be a perfectly valid and competent libelling of an offence, in the form which the statute created, in failing to report an accident in which damage had been caused to a vehicle on the road as a result of an accident.

A dissentient view, however, was expressed by Lord Carmont, who would have allowed the appeal. He said that, if the complaint had said nothing more than that the appellant collided with, and knocked down a wooden fence, it would have been plainly irrelevant inasmuch as the statute only provided for damage to a person, vehicle or animal, and that if the legislature had meant to cover the property of persons they would have so stated. But the charge also stated that damage was done to the appellant's own vehicle. In his view, that was putting too wide an interpretation on the section, when the plain indication of Parliament in using the language they used was to cover accidents between two vehicles, or between a vehicle and a person, or between a vehicle and an animal, and not an accident between a driver's vehicle and some property of a third person. He then went on to say that it seemed to him that the whole scheme of the section contemplated an injured and an injurer, and that it would not do to rely upon damage done to a driver's own vehicle in making a relevant case of non-reporting. To hold otherwise would be to involve every person with a vehicle going to the police station when he had sustained damage or injury to his own vehicle. "That," Lord Carmont said, "seems to me to put an intolerable burden on the citizen and upon the police, who would possibly have to deal with trivial reports."

This is, of course, a very important decision, and it will be of interest to see whether or not the Courts in this country will follow it, bearing in mind Lord Goddard, C.J.'s observations in *Newman* v. *Lipman* [1950] 2 All E.R. 832; 114 J.P. 561, that it is desirable that, where an Act applies on both sides of the border, the construction placed on it by the Courts should be uniform. It is submitted, however, with respect, that the decision of the majority of the Justiciary Court, that the Act applies in such a case, is wrong in law, but that the decision of the minority, that the Act does not apply, is correct, although not for the reasons advanced by Lord Carmont. As regards Lord Carmont's view expressed above, that the plain indication of Parliament in using the language they used was to cover accidents between two vehicles, or between a vehicle and a person, or between a vehicle and an animal and not an accident between a driver's vehicle and some property of a third person, this runs counter to the recent English decision of the Divisional Court in *Quelch* v. *Phipps* [1955] 2 All E.R. 302; 119 J.P. 430, on the meaning of the words in subs. (1) "owing to the presence of a motor vehicle on the road." This was the view which was acted upon by the justices in this case in dismissing an information which had been preferred against a motor bus driver for failing to report an accident to a passenger which occurred when the passenger, despite warnings by the conductor, had stepped off the platform of the bus which had slowed down at traffic signals at a road junction and fell forward onto the road thereby injuring himself. In the view of the justices this was not an "accident" within the meaning of the section, but that such an accident was one involving some kind of collision either between two vehicles, or between a vehicle and a person or animal, and the occurrence which they were called upon to consider was in essence no different from the case of a would-be passenger who might run after a motor bus in a futile attempt to board it whilst it was on the move, and who, in the process, fell down and injured himself in the road. In allowing an appeal and remitting the case to the justices with an intimation that the case was proved, Lord Goddard, C.J., stated that, whether Parliament envisaged such a case as the one then before the Court, was another matter, but he did not think that the Court could limit the above quoted words in the way contended for by the respondent, and accepted by the justices. He then puts the principle to be applied thus, saying, in referring to the facts: "We have to see whether or not that sort of accident comes within the words of the section. If it does, an offence has been committed. . . . As a matter of construction the only thing which we can possibly lay down is this, that there must be some direct, not indirect, cause or connexion between the motor vehicle and the happening of the accident." And in agreeing, Hilbery, J., says: "The justices sought to limit those words 'owing to the presence of a motor vehicle on the road' as they said, to an accident involving some kind of collision whether between two vehicles or between a vehicle and a person or between a vehicle and an animal. There is no real ground for putting that limit on the words. The limit which I should have thought must be put on the words is only this, that they indicate that the presence of the motor vehicle on the road must be something more than a mere *sine qua non*, that there must be a cause or connexion between the accident and the presence of the motor vehicle on the road."

Lord Carmont did, however, as it has been seen, go on to state that the whole scheme of the section contemplated "an injured and an injurer," but he appears to have made use of this expression following upon his view of what the correct interpretation of the section should be bearing in mind the kind of accidents which Parliament had in mind in using the language which they had used in the section; that is to say, on the pre-supposition that, in order that the section may apply, there must be an accident between two vehicles, or between a vehicle and a person, or between a vehicle and an animal.

THE CORRECT CONSTRUCTION

It is submitted, however, that in this expression, that there must be "an injured and an injurer," applied in its proper context lies the key to the correct construction of this section.

This involves reading the word "other" into the subsection, not only before the word "vehicle", but also before the word "person," with the result that it is only in a case where an accident occurs whereby damage or injury is caused to "any other person" than the person of the driver, or to "any other vehicle" than the motor vehicle which the driver is driving, that the duty to report arises. This view is put forward by the writer with confidence, but with considerable diffidence in view of the fact that it formed no part of the argument in the Scottish case. In order, however, to understand the ground upon which this argument is based it will be found helpful to see exactly what the words of this subsection mean, and in order to see what they do in fact mean it will be necessary to refer to the predecessor of this Act, which this Act repealed, namely the Motor Car Act, 1903, since the words of s. 6 of the Act of 1903 have been re-enacted, with certain alterations, and are the words now to be found in s. 22 of the present Act of 1930. It will also be helpful to re-write the wording of subs. (1) of s. 22 of the Act of 1930 in the language and in the sequence of the wording of s. 6 of the Act of 1903. (As an example of such a method of construction of a section of a later Act by examining the wording of an earlier Act, the provisions of which were repealed by, but were re-enacted in, the later Act, *see Natborny* v. *Natborny* (1932) 96 J.P. 351, in the Court of Appeal.) If this re-writing is done, it is submitted that the method of construction of the present Act which is contended for will become apparent.

THE MOTOR CAR ACT, 1903

The relevant wording of s. 6 of the Act of 1903 is as follows: "A person driving a motor car shall, in any case, if an accident occurs to any person, whether on foot, on horseback or in a vehicle, or to any horse or vehicle in charge of any person, owing to the presence of the motor car on the road, stop and, if required, give his name and address, and also the name and address of the owner and the registration mark or number of the car . . ." (Then follows the creation of the offence, and the penalty.)

It is submitted that, from the use of the words "a person driving a motor car," and the words "if an accident occurs to any person whether on foot, on horseback, or in a vehicle," the word "person," where it appears the second time in this section, must mean "any other person," and cannot include the "person driving a motor car" where these words appear at the beginning of the section. Similarly with the word "vehicle," it is submitted that the contrast is between the motor car (defined in the Act by s. 20 as having the same meaning as the expression "light locomotive" has in the Locomotives on Highways Act, 1896, *i.e.*, any vehicle propelled by mechanical power if it is under three tons in weight unladen, *see* s. 1 thereof) which is being driven by a person, and an accident occurring to "any vehicle in charge of any person" (which must mean any other person, not the driver of the motor car), the word "vehicle" here however being undefined, but which would be wide enough to include any means of conveyance (*see* as to the primary meaning of vehicle, *Ellis* v. *Nott-Bower* (1896) 60 J.P. 760). It is submitted, therefore, that the word "vehicle" here must mean "any other vehicle," and cannot include the motor car which the person is driving upon whom the duty to report falls.

THE ROAD TRAFFIC ACT, 1930

Coming now to the Road Traffic Act, 1930, the relevant wording of subs. (1) is, as it has been seen: "If in any case, owing to the presence of a motor vehicle on the road, an accident occurs whereby damage or injury is caused to any person, vehicle or animal, the driver of the motor vehicle shall stop and, if required . . ." (As regards the meaning of the word "driver," the interpretation section, s. 121 (1), provides that "Driver," where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and the expression "drive" shall be construed accordingly.) And s. 1 of this Act provides that part I of this Act (in which s. 22 is included) shall apply to all mechanically propelled vehicles intended or adapted for use on roads (in this Act referred to as "motor vehicles"). If however the wording of subs. (1) of s. 22 is re-written in the language and in the sequence of the former s. 6 of the Act of 1903, this will now read as follows: "A person engaged in the driving of a motor vehicle shall, in any case, if an accident occurs whereby damage or injury is caused to any person, vehicle or animal owing to the presence of the motor vehicle on the road, stop and, if required . . ."

The wording of this present subsection is, of course, different from s. 6 of the Act of 1903, this section being wider in its scope. Thus, it is now necessary that the accident which occurs should cause damage or injury (injury, in the case of a personal injury, not being limited to physical injury resulting from actual impact, but including injury by shock sustained through the medium of the eye or the ear without direct contact, *see* per Lord MacMillan in *Hay or Bourhill* v. *Young* [1942] 2 All E.R. 396). Again, the words "any person" are used generally, as opposed to the words "any person, whether on foot, on horseback or in a vehicle," and there is the omission of any reference to a horse, obviously in view of the substitution of the word "animal" as defined above. There is also the omission of the necessity for the vehicle, to which damage is caused, being "in charge of any person."

Nevertheless it is submitted that this subs. (1), even as at present worded, when it is read in this way, again emphasizes the points which have already been referred to in the above submissions in connexion with the construction of s. 6 of the Act of 1903, and which it is not necessary here to repeat, but which make it clear that the duty to report under this subsection only arises when, owing to the presence of a motor vehicle on a road, an accident occurs whereby damage or injury is caused to any person, other than the driver of the motor vehicle owing to the presence of which on the road the accident has occurred, or whereby damage is caused to any vehicle, other than the motor vehicle owing to the presence of which on the road the accident has occurred.

The above views are, of course, the views of the writer of this article only, and a decision of the Divisional Court will be awaited with interest should a point arise concerning the construction of the subsection, and the duty to report thereunder, in relation to damage or injury caused to the driver, or damage caused to the driver's own motor vehicle only, no other person, or vehicle being damaged or injured.

M.H.L.

NOTICES

A Votive Mass of the Holy Ghost (the Red Mass) will be celebrated on Monday, October 3, 1955 (the opening of the Michaelmas Law Term) at Westminster Cathedral at 11.30 *a.m.* Celebrant: the Rt. Reverend Monsignor Charles L. H. Duchemin. Counsel will robe in the Chapter Room at the Cathedral. The seats behind counsel will be reserved for solicitors. Those desirous of attending are requested to inform the Hon. Secretary, Society of Our Lady of Good Counsel, 6 Maiden Lane, W.C.2, so that an adequate number of seats may be reserved.

MORE ODDMENTS FROM THE "J.P."

By THE REV. W. J. BOLT, B.A., LL.M.

(*Continued from p. 620, ante*)

The "J.P." was born in days when the kingdom was disturbed by the Chartist agitation, and the clamour of the movement is echoed in many places in the early volumes.

As a characteristic reference, I select a query at 1839, p. 537. "Chartists: There are two sects of these people, one by far the more numerous, called the 'Moral Force Chartists,' and the other, called 'Physical Force Chartists.' The first sect appear to be as harmless as any other political party or any religious sect, and no doubt they are entitled to discuss their principles in peace and security, those principles being entirely harmless and confined to a series of propositions, as electing the House of Commons. A meeting of these men is, I presume, not illegal merely because a few individuals mistaking their principles, happen to entertain unfounded terror respecting a Chartist meeting. Suppose the magistrates actually refused to grant a licence to an innkeeper merely because a Chartist, Whig or Radical meeting has been held in his house, which meeting was not, however, entirely of a seditious character, but about this the magistrates make no inquiry. Would a criminal information be granted as in *R.* v. *Hann*, 3 Burr. 1716, and other similar cases where political antipathy has influenced the conduct of the magistrates? M.Y."

The editor answered: "If the people meet quietly and peaceably for a lawful purpose, as for instance if the meeting be convened by a printed notice which states the matters to be discussed thereat, and it assemble as other lawful meetings do, without the sound of drum or any military array or pre-concert calculated to inspire terror, to debate on that matter, it is not of an unlawful tenor. They are only exercising the most undoubted right, with which no power can legally interfere. If such a meeting assemble at a public-house, that would be no valid cause of forfeiture of a licence, or of refusal by the justices to grant it. They are bound, we think, to inquire whether the meeting be a seditious one or not, and if they refuse a licence without such inquiry, that would amount to such a degree of oppression as would induce the Court of Queen's Bench to suffer an information to be filed. Where the licence is refused from political antipathy without other offence in the publican, an information would lie."

The interpretation of the Sunday Observance Acts perpetually perplexed readers, and a characteristic inquiry appears in 1840 at p. 226.

"Lord's Day: Gambling. Two persons are seen playing at pitch-halfpenny on a public road in their own village on the sabbath, and no doubt is entertained that the parties were playing for the pence they used at the game. *Vide* 1 Car 1, c. 1, which prohibits any person from playing at any unlawful exercise or pastime on the Lord's Day under a penalty of 3*s.* 4*d.*, or being set in the stocks for three hours. *See* also 33 Hen. 8, c. 9, s. 16, which enumerates certain unlawful games, but pitch-halfpenny is not of the number. *See* also 9 Anne, c. 14, which makes the playing for money unlawful, but the unlawfulness consists in the stake being above £10. Is the game of pitch-halfpenny an unlawful game so as to make the playing of it on the sabbath an offence; and if so, under what statute? A Subscriber."

"We know of no statute or common law interpretation declaring pitch-halfpenny to be an unlawful game when played in the public road. The statute 5 Geo. 4, c. 83, s. 4, would perhaps justify their apprehension as idle and disorderly persons."

Throughout the nineteenth century, the privileges of the Cinque Ports were continually the subject of inquiries. One of the earliest appears in 1840, at p. 416. "Corporations: court of record: replevin jurisdiction. By the custumal of the borough of R, as well as by the general charter of the Cinque Ports, of which R is a member, the mayor and jurats are authorized to hold a court of record, for hearing and determining all kinds of civil and criminal proceedings of what nature soever, as fully as the superior courts at Westminster. The authority as regards criminal proceedings has been exercised until the present time, but no court of record for trying civil actions has been held for the past 30 years. Within this borough the sheriff of the county has no jurisdiction, all writs, etc., being executed by the bodar of Dover Castle. On a case of replevin for illegal distress recently happening within the borough of R, the bodar was applied to, to make the replevin, which he declined doing, as he considered the mayor of the borough the proper party to make it. The mayor accordingly did make it, and the repleving bond was executed to him, conditioned to make a plaint at the next court of record to be holden for this borough. A similar thing has been done in the borough of D, but there the court of record has never been disused. Can you advise whether the mayor who, before the passing of the Municipal Act, would undoubtedly have had power by the custumal and charter, to make the replevin in question and he having taken it, to whom and when ought the plaint to be tendered?"

Much less technical is the inquiry at 1840, p. 564.

"Nuisance: public bathing, remedy. At a fashionable bathing place on the West Coast of England, visitors are much annoyed at the manner in which public bathing is conducted at full tide. The water flows close to the foot of the parade where hundreds of visitors are continually parading, and the gentlemen not infrequently take a machine and bathe within 20 or 30 yards from the parade, and there expose themselves to all who remain on the beach. The inhabitants, with the approbation of the magistrates, have requested bathers not to bathe within 70 yards of each extremity, of each end of the parade, or within 70 yards of the front of it, and have given public notice thereof; but it is still argued that, because they use the machines, they are not liable to be indicted or punished under the Vagrants Act. Your opinion is respectfully requested in this case, whether the magistrates can commit under the Vagrants Act, and whether the parties so exposing themselves is a wilful intent to insult females, under that Act. A Magistrates' Clerk."

The answer is equally intriguing. "In *R.* v. *Cumdew*, 2 Camp. 89, the defendant was indicted for exposing his naked body on the beach at Brighton, opposite the east cliff there. The court said there was no doubt that he was indictable, and that the offence was an indictable misdemeanour. It being the first prosecution of the sort in modern times, he was discharged on his own recognizance, to appear when called upon to receive sentence. In *Blundell* v. *Catterall*, 5 B. and Ald. 268, it was held that the public have no common-law right of bathing

in the sea, and, as incident thereto, of crossing the sea shore on foot or in bathing machines for the purpose. And if a naked person approach so near in street, road, or public highway or in the view thereof, or be naked in any place of public resort where women are, we think it may be fairly presumed that he is then in that condition with intent to insult them. But in a conviction under the Vagrants Act, it should be stated, it seems to us, by name who the women were, thus exposed to the insult. It would not be sufficient to state generally that the party intended to insult females then and there present, without stating who were present. It is clearly an indictable offence, and perhaps that is the best way of treating it. The parties may be summoned, or apprehended by warrant, or on the spot without warrant and required to find bail."

A query at 1840, p. 785, gives a fragrant picture of a bygone era. " Hundred Court Fees. The constable of the parish of L in the hundred of C has paid the year's fee-farm-rent and court-silver due from the parish to the lord of the hundred, and A, one of the parishioners of L, refused to pay his customary contribution thereto. What remedy has the constable against A for the recovery of his contribution towards such fee-farm-rent and court-silver? A Subscriber."

" The fee-farm-rent is, since 4 Geo. II, c. 28, s. 5, recoverable as any other rent, that is, by distress, if it was paid three years before the passing of the Act or has been created since. For court-silver, by which we presume our correspondent means cert-money, or what is usually called the common fine, there can be no distress without a prescription in the law. If it is to be paid at the day of the leet, the defaulter may be amerced on non-payment. It is likewise recoverable in an action of debt."

A much less beguiling picture of the 'forties occurs in a query at 1841, p. 326. " Child Dropping: punishment. A person having the care of a child not his own and being unwilling to continue maintaining it, leaves it on the highroad, where it is found deserted and taken to the union workhouse. The offence does not appear to come within the provisions of the 5 Geo. IV, c. 83, commonly called the Vagrants Act. Is there any law by which he can be punished summarily, or, if not, in what way, can the father be punished? A Subscriber."

" If a person contract to maintain a child and, before putting an end to the contract, treat the child in the manner described, an action will lie at the suit of the other contracting party; and he would be indictable for neglecting to provide sufficient food, if the child's health was thereby endangered, and the contract was to provide such food, etc. But it is competent of course, to either party to put an end to the contract; and if it was at an end when the person referred to left the child on the road, we know of no law by which he can be punished. It is an act of inhumanity, it is true, but not such a one as is visitable by law."

A lighter line of inquiry is pursued at 1841, p. 327.

" Beerhouses: construction of Act. Please to refer to the 1 Will. IV, c. 64, s. 13, and then to the following words contained in the licence given in the schedule to 4-5 Will. IV, c. 8, s. 5, ' nor knowingly suffer any unlawful games or any gaming whatsoever therein,' and inform me (1) whether bagatelle without stakes is a game thereby prohibited, (2) whether it is material to prove the personal knowledge of the beer-seller, his wife, or waiter, or any and each of them, or a proof that a boniface was upon the premises, would suffice."

" If the word ' table ' in the 33 Hen. VIII, c. 9, s. 16, could be ascertained lawfully to include bagatelle, the game of bagatelle would be an unlawful game if played by an artificer, etc., as there mentioned; as it was clearly the intention of the statute to prohibit gaming for recreation as well as for value, for the purpose, as its preamble indicates, of encouraging archery. But it is difficult to say what instruments of gaming are comprised within the term ' tables.' We are inclined to think that bagatelle is not. Then the word ' gaming ' has clearly a double significance, meaning gaming for value, and gaming for recreation. 1 Will. IV prohibits any gaming whatsoever, and in doing so, it seems to us it must mean to prohibit both gaming for value and gaming for recreation. We are inclined therefore to think that playing at backgammon is within the statute."

This answer evoked a reader's comment at p. 347. " Gentlemen, With reference to your remark on p. 327 that it is difficult to say what instruments of gaming are comprised within the term ' tables,' I would submit to you that the word ' tables,' is as precise and well-defined an expression as chess or draughts, it being nothing more than the old name for backgammon; and therefore that no other game can be included under it. *See* Du Cangt, *Gloss in Voce Tabula*, or Strutt's ' *Sports and Pastimes*.' V.T.S."

A kindred scruple is voiced at p. 393. " Vagrants; gaming; construction of Act. I am a constant reader of your paper, and I quite approve of the view you take of the law of gaming, contrary to the opinion of so sound a lawyer as the attorney-general. But I should be obliged by your informing me in your next paper whether, where parties play at dominoes in a wood distant from a highway and out of the sight of people except those who may happen to be walking that way, which very rarely happens, the game of dominoes be a chance game within the Vagrants Act, and whether dominoes be instruments of gaming, and whether the place of play is a public and open place within the meaning of the Act. S.M."

" The place described cannot, we think, be considered an open and public place within the meaning of the Vagrants Act. Dominoes appear to us to be instruments of gaming within the Act as much as dice, and the game which they are used to play, is a game of chance."

A question at 1841, p. 377, conjures up a picture of an intriguing institution which still survived.

" Ale-conners: duties. I have recently been appointed ale-conner for my parish, and am very anxious to discharge the duties of an office of such importance to the interests of the poor. I shall be obliged by your stating in your journal in what book or Act is to be found the duties and powers of an ale-conner properly defined. An Ale-conner."

" There is no work existing on the duties of these officers specifically. The officers are here and there mentioned in the books, and some of their duties slightly touched upon as they existed in any particular manor with which the writers were acquainted. In most manors, it was their duty to taste the ales sold in alehouses, for the purpose of testing them, hence their names of ale-conners or ale-tasters. In others, it was their duty to inspect weights and measures throughout the manor or jurisdiction of the court leet. But in truth, their duties being entirely founded on custom and the customs of manors being almost infinite, it is not likely that any work embracing particular customs and duties relating to these officers would be produced. Our correspondent should obtain from the steward of the leet what are the customary duties in the jurisdiction for which he is appointed."

Friendly Societies were nervously groping their way to legal recognition. Several of those whose promoters consulted the " J.P." are still among us; but there are two inquiries, at 1841, p. 811 and 1842, p. 52, about a Welsh society, the " Ivorites."

The former runs: " Friendly Societies: Ivorite lodges; recovery of moneys advanced by the members. The True Ivorite society is an institution of recent growth, confined entirely to Welshmen, the objects of which with respect to the members are similar to those of the friendly societies whose rules are enrolled under the tenth of Geo. IV, with the exception that secret signs and pass words for the purpose of distinguishing members of the institution, and that the lodges belonging to the Ivorite society are established throughout Wales, subject only to the premier and district lodges."

(To be continued.)

THE REPORT OF THE MINISTRY OF HOUSING AND LOCAL GOVERNMENT (Cmd. 9559)

By IVOR L. GOWAN

The report of the Ministry of Housing and Local Government published on September 2 has been long awaited, for it is the first time that the Ministry has reported since its creation in 1951. The principal subjects covered in this report are Planning, Housing, and Local Government Affairs. In all these aspects there is a reasonably well documented chronicle of past actions, but the resulting mixture has important omissions. The new Parliament, it is true, will probably take legislative action on some of these subjects, and one could not expect a departmental report to deal with the probable outcome. On the other hand, a report covering such a long period might have been expected to give us more guidance as to the principles on which future action might be based.

HOUSING POLICY

Housing policy is reviewed under three phases:

(1) April, 1950–October, 1951, when Government policy was to keep the housing programme running at a steady level of 175,000 new houses built each year.

(2) From October, 1951, to November, 1953, when the Government policy was an expansion of all forms of house building, which resulted in the completion of 308,952 new houses in 1954.

(3) The current phase of " steadying the programme of new house building " and the diversion of any additional output becoming available for productive industry and agriculture and for many social needs, which have been held back during 15 years of restraint, and for work on the existing stock of houses.

All this is admirably documented, and so is the succinct comprehensive account of the efforts of the department in its research and information policy, particularly in combating the problem of high building costs.

But there is a significant gap in the discussion of housing policy. To a large extent the momentum and size of the municipal housing programme depends upon the housing subsidy. During the period under review there have been no less than three changes in the rate of subsidy available for local authorities and these are chronicled. But the subsidy itself is based upon a formula drawn up, in hurried fashion and on a temporary basis, in 1946. Are we not due for some reconsideration of the assumptions upon which this subsidy is based ? The reader will look in vain in this report for any discussion of this vital question. Perhaps there is one indication only that the Ministry's heart is in the right place. Referring back to the White Paper " Housing—the next step " it recalls that in the interests of the general body of taxpayers the present subsidy could not continue *indefinitely* at the current rate. It is a very great pity that we are not given some guidance as to the department's views, if any, of the modifications that will become necessary.

TOWN AND COUNTRY PLANNING

On planning matters there is much to tell. During the years which this report covers there have been no less than three important Acts of Parliament and the Town and Country Planning Act, 1947, the bible of the planners, has been drastically altered. The report gives us a useful and intelligent summary of all that has happened in this field.

Of equal importance is the fact that during the period all but a very few of the planning authorities have submitted their development plans, and the report gives us a digest of some of their more important contents. It is interesting to know, for example, that county boroughs will want to take no less than 25 *per cent.* more land for residential purposes than they have at the moment. And that the development plans of the county boroughs envisaged a 40 *per cent.* increase in the land required for industry, a figure " most likely to need review." There are also valuable accounts of the development of the new towns and the national parks. But again, on two issues on which informed opinion has most doubts, this report has very little to say.

First, are county boroughs and county councils adequate planning authorities? Some of the principal questions that concern planners—the spread of suburbs, the expansion of towns, and the existence of " green belts," are among the most difficult to solve, with the county boroughs and county councils as distinct and separate planning units. There is one significant paragraph on this problem:

" For county planning authorities whose areas border on overcrowded towns the problem has been where to provide for the ' overspill '—to what extent to allow fringed development round the town and where best to provide for developments at some distance from the town. Eagerness for and against possible county borough extensions has undoubtedly influenced planning: but some county boroughs and county councils have reached an agreed solution. *Others have found it difficult to do so.*"

Could we not have had a little more than this on this vital problem of the peripheral areas? Has the Ministry, for example, given any serious consideration to the powers it possesses of insisting upon joint planning authorities in such cases?

The second gap is a reasonably full discussion of the whole problem of " overspill," in so far as it affects the dispersal of population from the larger towns and the growth of existing towns and new towns. Here is the place where guidance by the central authority could have been exercised, and, if it has not been exercised, one would have liked to know why the Minister held back. Has any research been done on this matter? Is the Ministry likely to encourage research by outside bodies? What are the likely objectives in future years, for the concentration or dispersal of population?

It may be objected by some that fundamental questions relating to housing subsidies, population policy, and the

reorganization of local government are political and not administrative questions. Indeed they are. But, if the decisions are to be taken by enlightened politicians, and still more if they are to be understood by an informed and interested population, it might be expected that information, guidance, and critical analysis would be supplied. Only the Ministry of Housing and Local Government is in a position to provide this guidance, and the most disappointing feature of the report of its work to date is the almost complete omission of such guidance on matters of principle.

MISCELLANEOUS INFORMATION

LIVERPOOL CITY POLICE— CHIEF CONSTABLE'S REPORT FOR 1954

Liverpool has a large force with headquarters and seven separate territorial divisions. The year ended with a deficiency of 495 men in an establishment of 2,264. Fortunately, modern methods compensate to a certain extent for the lack of men, and attention is called specially to the value of the 16 police dogs with their handlers, the 39 full-time first police reservists and the 60 police cadets. There has also been a reorganization of the criminal record office and the juvenile liaison officers and the crime prevention department also help to make up for the shortage.

The police cadets had at the end of the year an actual strength of 58. No difficulty is experienced in attracting eminently suitable young men, and the success of the scheme is shown by the fact that 47 ex-cadets are now serving in the regular force and many of the 44 now serving with H.M. Forces are expected to join the police later.

Of the police dogs it is stated that there is no part of the city in which they cannot be usefully employed, especially at night-time. One outstanding capture by a dog was that of two youths who refused to stop when challenged by a policeman and who made off on a stolen motor cycle. The dog, released by his handler, chased them and forced them to abandon the cycle, and then, continuing the chase, cornered them in a public urinal and detained them there till the constable arrived to arrest them, or rather, to take them over from the dog. Other dogs are in training to add to the strength of this useful section of the force.

The police housing situation is not very satisfactory, although during 1954 it showed some improvement. There are 189 members of the force requiring houses. Two are separated from their wives and families, and 22 are living outside the city because of housing difficulties. A points system for the allocation of police houses has been instituted, and it is stated that the new method does appear to be working in the right direction.

In the field of sport, the force has excellent facilities, and particular honours were won in boxing, football and athletics.

The report records a reduction of 14·9 *per cent.* on 1953, in the number of reported crimes, the total being 17,345. Of these 15,990 formed the net total of substantive crime for 1954, making the lowest total for 14 years. Three thousand four hundred and forty-seven persons were charged with indictable offences, 2,139 adults and 1,308 juveniles. There was a sharp decline in breaking offences to 4,956, a decrease of 21·9 *per cent.* on the 1953 figure. Thefts from the docks showed a slight increase, but the chief constable thinks this may well have been due to the difficult conditions resulting from the dock strike in October, 1954. Fifty-six *per cent.* of those prosecuted for stealing cargo were dock workers, 20 *per cent.* were seamen, 11 *per cent.* motor drivers, 2·5 *per cent.* watchmen, leaving a balance of 10·5 *per cent.* of the other classes of persons. It is rather a dreadful thought that dock workers, who are not, in the view of many people, now badly paid should account for such a large proportion of dock thefts.

In order to increase still more the effectiveness of the finger-print department, the chief constable has arranged for a new system of searching for finger-prints at the scenes of crime. Two finger-print searchers are now appointed to each division and they visit the scene of every type of offence where finger impressions may have been left. As a result more "prints" have been found, and in 1954, 251 identifications of offences resulted from the examination of some 1,449 finger-prints.

Special attention has been devoted to seeking public help in the all-important duty of crime prevention, by means of widespread publicity and arrangements for giving security advice to any who seek it. The report deals also with the juvenile liaison officer scheme, giving very interesting and instructive figures showing that of 3,150 juveniles dealt with under the scheme since 1949 only 272 (8.6 *per cent.*) are known to have committed further offences.

We are left with no space to deal with road traffic problems in Liverpool. The parking problem is discussed, but the report is not able to offer any solution. School crossing patrols are doing useful work. They now number 80, and they are said to give a feeling of security to the timid child while duly restraining the over-impetuous.

LANCASHIRE No. 9. PROBATION COMMITTEE REPORT

This report covers the work of Manchester county petty sessional division and the borough of Eccles.

The value of the co-operation of teachers in the work of the juvenile court and of probation officers is well recognized. Sometimes teacher-magistrates sit as members of the court, but those who are not magistrates can and do render much useful service. In his report, Mr. J. W. Marsh, senior probation officer, says: "the juvenile court magistrates, at our request, invited a number of local headmasters and schoolmasters to attend hearings at the juvenile court from time to time during the year. This has had the effect of not only strengthening the already excellent liaison we enjoy with the schools, but has also stimulated interest in the work of the court amongst the teachers themselves, and has given them a further insight into our common problems."

Waves of juvenile crime are frequently publicized in some newspapers, and sometimes accompanied by immoderate criticisms and ill-considered suggestions. Mr. Marsh is probably nearer the mark when he writes: "The decrease in the incidence of juvenile crime noted last year has been maintained, which rather suggests that the irresponsible and hysterical uproar in various sections of the community which occurred some time ago over this question, was quite unwarranted. Crime, in the same way as any other social disaffection, must be treated with detachment and objectivity divorced from emotionalism." The attitude of the juvenile court towards truancy cases is against the making of an approved school order until there has been inquiry into the underlying causes, and, in many cases the effect of a supervision order has been first tried. Nevertheless the report suggests that the approved school does supply the kind of discipline of which some persistent truants are in need, an exaggerated sympathy towards persistent truants who find themselves committed to approved schools being often unwise and misplaced, and perhaps doing more harm than good.

THE ROAD FUND

The Road Fund was originally known as the Road Improvement Grant which was established by the Development and Road Improvement Funds Act, 1900. From this fund grants were made by the then Road Board to highway authorities and the fund was maintained by the receipt of revenue from motor spirits duties and the excise duties and licences for motor cars. Grants were permissible towards the construction of new roads or the improvement of existing roads. The Road Board was also authorized to construct and maintain new roads whenever this was considered necessary to facilitate road traffic. Later, the administration of the Road Fund, as it was then called, was transferred to the newly constituted Ministry of Transport. Gradually, however, as the revenue of the fund increased more and more of it was used for the relief of general taxation and both local authorities and motorists felt that this was wrong as being contrary to the intention when the fund was created. The assignment of revenues to the fund was terminated by s. 33 of the Finance Act, 1936. Section 4 of the Miscellaneous Financial Provisions Act, 1955, now provides for the formal abolition of the fund on April 1, 1956. All sums then standing to the account of the fund will be paid into the Exchequer. After winding up the fund any expenditure incurred by the Minister of Transport and Civil Aviation which would otherwise have been defrayed out of the fund will be defrayed out of moneys provided by Parliament.

BUCKINGHAMSHIRE WEIGHTS AND MEASURES REPORT

There is an interesting comment on the present position with regard to the sale of bread in the annual report of Mr. W. A. Davenport, chief inspector for Buckinghamshire. After observing, as other inspectors have done, that many housewives believe they are now getting 1 *lb.* or 2 *lb.* loaves, whereas in fact they are 14 *oz.* or 1 *lb.* 12 *oz.*, he goes on: "The reduction was made in 1946 to assist in the economy of flour when there was a critical food shortage. . . . In 1955 the smaller loaf is still with us.

"Now there is a possibility that the nine year old smaller loaf will become even smaller, for recently trade journals have suggested a further reduction in size. Apparently this suggestion has a dual purpose, to make an adjustment in the price of bread and to increase its consumption. The first purpose would be achieved by selling the yet smaller loaf at the same retail price, and the second it is claimed, by increasing the proportion of crust in each loaf, thus increasing the flavour. This latter argument is a particularly strange one when it is remembered that the original cut in the size of the loaf in 1946 was advocated on the grounds that it would reduce consumption of bread.

"There may be sound reasons for an adjustment in the price of bread, but to achieve it by reducing the size of the loaf is not a method which will meet with general approval. Such a practice could create the impression that an attempt was being made to conceal the true increase in cost from the purchasing public. There is another objection, too. The price per unit weight is hardly likely to remain stationary over a long period and more price changes will be necessary from time to time. This would, presumably, lead to further changes in the size of the loaf. An established practice of constantly adjusting the size of the loaf to compensate for a variation in price would lead to confusion both in the trade and in the minds of the purchasing public, and it would add considerably to the difficulties of administration."

The general standards of accuracy in the county are satisfactory. Out of 66,463 samples of food tested only 1·18 *per cent.* were found deficient in weight or measure. As to coal and coke, 8,078 bags and loads were examined during the year and 5·42 *per cent.* coal and 6·03 *per cent.* coke were found to be short weight. A number of complaints from householders about suspected short weight have been investigated, and although they did not reveal actual short weight, Mr. Davenport asks the public to continue to report any such instances, as he is confident that this sort of co-operation between the public and the weights and measures department acts as a deterrent against dishonest practices.

Sand and ballast are not often the subject of prosecutions, but this report tells of a case in which two carters having collected loads of 5 *cu. yds.* from the pits, substituted weight tickets describing the loads as 6 *cu. yds.* They were prosecuted.

It is not always the vendor of food that is responsible for impurities. Cooking utensils may be to blame.

The headmaster at a secondary modern school telephoned about the peculiar colour of a rice pudding made in the domestic science centre at his school. After being cooked in an aluminium saucepan it was found quite unfit for human consumption, there being 7·5 grains per pound of metallic aluminium present. The saucepan must have been in a bad state. A report was sent to the chief education officer.

There is an example of the sale of a feeding stuff which shows how purchasers should take heed of what is practically a warning from the seller. An article described as "Rodent damaged Milk Powder, sold with all its faults" was found to be sour, rancid and so badly contaminated by rodent droppings, that it was not fit for feeding to stock.

CITY OF YORK—
CHIEF CONSTABLE'S REPORT FOR 1954

In this report it is possible to save some space by printing one list of authorized establishment and actual strength, since the two correspond exactly, with a total of 170. It is noted that the city is gradually expanding with new building sites, particularly on the west side, and that this expansion is being carefully watched in view of the additional responsibilities it means for a force which, with its present establishment, is already fully extended.

The present report is submitted by a new chief constable. His predecessor retired on August 31, after 45 years' police service during 25 of which he was chief constable. The present holder of the office pays tribute to his predecessor as being responsible for the maintenance of the present efficient and happy condition of the force.

It is expected that during 1955 two new section stations should be completed, and plans for two more are being prepared. These, it is stated, should provide improved facilities for beat and patrol officers and should make for more efficient working and resultant better service to the public. It is also hoped soon to complete long overdue alterations at police headquarters, and so to give adequate accommodation for staff now working under difficult conditions.

The special constables, who on December 31, 1954, numbered 117, have given valuable help to their regular colleagues, including the manning of traffic points in connexion with coastal traffic at week-ends. It is only very public-spirited citizens who would be prepared to sacrifice in this way part of the week-end, which is probably their only period for rest and relaxation.

Reported crimes at 1,305 showed an increase of 201 on those for 1953. The increase was caused mainly by alleged thefts of pedal cycles and of motor vehicles and by simple larcenies. No less than 493 thefts of pedal cycles were reported, 66 more than in 1953. Owners of cycles are urged to do all in their power to make this offence as difficult as possible to commit. Two hundred and sixty-three persons, of whom 94 were juveniles, were prosecuted for detected crimes, which numbered 563. Three hundred and ninety-three of the total of 1,305 are shown as "no crime," so that detections in the case of "accepted" crimes were 61·73 *per cent.* Since the end of 1954 an arrest has been made which has led to the detection of a further 14 cases of housebreaking.

Juvenile offenders were 183 in number, 94 for indictable and 89 for non-indictable offences. There were 997 traffic offences reported during the year, 847 by motorists and 150 by cyclists. Two hundred and seventy-nine motorists and 31 cyclists were cautioned, the remainder were prosecuted.

Accidents increased by nearly 19 *per cent.*, from 1,311 to 1,556, unfortunately a peak figure exceeding considerably the previous highest total, which was 1,394 in 1950. In 542 of the 1,556 someone was injured, four people being killed and 586 injured. Pedal cycles easily outnumbered other vehicles in accidents, and 291 in all were involved. No less than 128 accidents were caused by straying dogs, and the dog owners responsible are criticized for lack of control and inexcusable disregard for the care of their animals. In spite of the increase in accidents the chief constable says that he is sure that the co-operation between police and teachers in York in training children for road safety is having a pronounced effect. Observation suggests that school children's road sense and behaviour are better than those of many adults.

There are a large number of licensed premises in the city (275) and 3,141 visits were paid by police during the year. Only 66 persons were prosecuted during the year for drunkenness, and even this low number shows an increase of four over that for 1953. But 17 people were prosecuted for offences against s. 15 of the Road Traffic Act, 1930. Twelve were convicted, one (a U.S. serviceman) was dealt with by the U.S. authorities, and four were acquitted.

REMAND HOME ACCOMMODATION

Several county councils have expressed concern at the high per capital cost of maintenance in the remand homes they provide and the matter was referred to the Home Office by the County Councils Association. It was reported at the last meeting of the executive council of the association that a reply had been received stating that recent returns indicate a continued decline in the number of children admitted to the homes and, in general, a slight decrease in the average period of time spent there. It is explained that the use of remand home accommodation is kept under review in consultation with the local authorities concerned and where the average use of a home has been unduly low over a period and accommodation in another home can be made available within a reasonable distance of the courts by which the children are committed, homes have been closed. Some homes have been reduced in size. It is emphasized, however, that caution is necessary in reducing the number of homes. The functions of a remand home make it desirable to have a network of homes throughout the country, situated within reasonable distance of the courts before which the children and young persons appear (so as to avoid over-long journeys by the children and escorting officers) and, wherever possible, to secure that the homes are in areas where facilities for medical and psychiatric examination are available. These considerations, and the small size of most remand homes, mean that it is not always practicable to close a home which is not sufficiently fully used, or (because of continuing overhead costs) to effect substantial economies by reducing the size of existing homes. The closing in recent times of homes which were insufficiently used and whose retention could not be justified has resulted inevitably, in some areas, in the loss of desirable facilities and in some inconvenience to the courts and to the services concerned. It is stated, however, that close attention will continue to be given to the use of remand home accommodation, in consultation with local authorities concerned.

CUSTODY OF CHILDREN IN DIVORCE CASES

The County Councils Association has been informed that one or two children's officers have approached the Home Office about cases in which the Divorce Court, when granting a decree of divorce to the parents, awarded the custody of a child in the care of a local authority to one parent, but ordered that the child remain in the care and control of the authority. In one case, the Judge went further and ordered that the child remain with the foster parents with whom he was boarded out. The local authority was not represented, and in the case of a child received into care under s. 1 of the Children Act, the Judge's order might well conflict with their duty under s. 1 (3), nor of course had the authority any power to keep a child in their care after he had reached the age of 18. The Home Office have, therefore, discussed the difficulty with representatives of the Lord Chancellor's Office and the Principal Probate

Registry and as a result the President has approved a Direction about custody orders in respect of children in the care of local authorities. It is suggested in this Direction that if the Judge considers it desirable to limit the right of a particular parent to regain actual possession of the child the following wording would be appropriate:

"And it is further ordered that the (petitioner) shall not take over the care of the said child from the (local authority) unless that authority is satisfied that to do so would be consistent with the welfare of the said child."

BRITISH EMPIRE SOCIETY FOR THE BLIND

The annual report of the British Empire Society for the Blind shows a remarkable expansion of work in the Colonies since the society was formed five years ago. In a score of territories, which together contain more than two-thirds of the population of the British Colonial Empire, the foundations have been laid of a permanent system of blind welfare. The number of blind children at school has doubled; the number of blind adults in training has increased tenfold. Thirty new schools and training centres have been established, six more are being built and an additional 18 have been planned. Braille alphabets have been devised for practically every written language in the Colonies. In the medical field, also, progress has been impressive. Surveys to reveal the extent and causes of blindness have been conducted in areas containing 20 million inhabitants. International interest has been focused on some of the main causes of tropical blindness and important research and control measures are now being successfully undertaken. These achievements, which constitute one of the most spectacular advances ever made in this field of work, have resulted from a fruitful partnership between government and philanthropy. Powerful local organizations have grown from the enterprise and devotion of a few people who, appalled by the consequences of blindness in their own neighbourhood, formed themselves into committees and set in motion far-reaching plans. The society helps these local movements in various ways including financially by appealing to companies with interests in Empire trade and to individuals who see in this work a practical means of expressing their concern for the welfare of the people of the Colonies. But £2 are now being raised there for every £1 raised in the United Kingdom.

The director of the society (Mr. John Wilson), who is himself blind, made a visit to the British Caribbean territories which has resulted in increased help being given to the vast numbers of blind people there. The work being done in each Colonial territory is explained in the report. The section of the report dealing with West Africa shows that probably there is more blindness there, in proportion to the population, than in other parts of the world. Recent surveys indicate that 400,000 people are blind in Nigeria, the Gold Coast, Sierra Leone and Gambia. One major difficulty is, however, to overcome the suspicion of the more primitive people who are held in the thrall of their native medicine-man. There are at least 120,000 blind people in East Africa, where a travelling clinic has visited many areas. Great interest attaches to an experiment in training blind people as peasant cultivators. Work is already done in the territories in the Mediterranean and the Near East and in South East Asia. Certainly the report shows great achievements, but more remains to be done.

HEALTH OF GLAMORGAN

One of the matters of general interest in the report of the medical officer of health for Glamorgan for 1954 is an account of the arrangements made for dealing with the after-care of paraplegics. After a prolonged period of specialized hospital treatment and some months before they are likely to be discharged, the question of the suitability of the patients' housing accommodation is considered. Minor and sometimes major alterations are usually involved, *e.g.*, substitution of a ramp for steps leading to and inside the house, widening of doors to allow entrance of wheeled chair, provision or adaptation of toilet or bathroom accommodation. Where rehousing is indicated, an approach to the housing authority is usually sympathetically received. Another matter of interest is the attention which is given in the report to the need for chiropody treatment for the aged. It is suggested that such facilities would be of inestimable value to the elderly person who is unable to move very far without pain or difficulty because of remediable foot conditions. This accords with the evidence which is growing throughout the country on the desirability of bringing chiropody within the National Health Service. On the home-help service, it became evident in Glamorgan that the demand continues to increase and it was found necessary in several areas to curtail seriously the amount of help allocated to individual cases. The staff has now been increased on the basis of one home-help to 3,000 population instead of 2,750 as previously. As elsewhere in the country, the chronic sick and the aged infirm are receiving help to a much greater extent than in the early years of the service, while there has been a fall in the number of maternity cases supplied with home-helps to less than half the total for the corresponding quarters in 1950. Turning to the mental health service, stress is laid on the need to make more adequate provision for elderly senile. It is pointed out that one of the unfortunate and not infrequent concomitants of old age is a slow deterioration of the mind. Those thus affected, the senile but not certifiable, are mentally confused and unable to maintain their former "mental independence." Mental infirmity is described as one of the tragic risks of the elderly and is not necessarily accompanied by physical informity. As the county medical officer says, "certification under the Lunacy Acts seems a harsh way of dealing with them."

LANCASHIRE ACCOUNTS, 1954/55

The administrative county of Lancaster has a population of 2,051,000, and during the financial year 1954/55 the county council spent £32 million on providing local government services for these persons. Of this total, education accounted for no less than £18 million, highways and police for £3 million each, and health services £2 million: the other services involved only the expenditure of relatively small sums.

The money was found approximately in the ratio of two to one by the government and the rates respectively.

Like many local authorities, and particularly county councils, Lancashire holds substantial sums of capital moneys—the only difference in Lancashire being that because of its size it holds more cash than most. The total exceeds £1½ million, and only a small proportion of it has been applied to new capital purposes. We were interested to see that £20,000 was received from the Treasury in 1878/79 as compensation "for excess cell accommodation over requirements on transfer of prisons to the Government."

As with all authorities, the expenditure of the finance committee contains clues about policy on a number of matters. For example, the county council provided £5,900 for the purpose of giving gratuities to dependent relatives and £1,600 for grants to staff in connexion with courses of instruction and for the purchase of students' books. Members' expenses and allowances totalled £11,800: in the previous year the following amounts were spent for the same purposes by the counties named:

County	*Number of Members*	*Area 1000's of Acres*	*Expenditure* £
Carmarthen	76	588	5,050
Hertfordshire ..	88	405	3,300
Yorkshire, West Riding ..	128	1,610	11,300
Lancashire	120	1,036	10,200

We are interested to see that a considerable number of houses have been provided for employees. (Incidentally, the amounts shown on p. 85 as recoverable from the police and highways accounts have been transposed in error.)

The superannuation fund continues to grow, the surplus for the year being £600,000 and the total of the fund at March 31, £4,921,000. Over £4 million is invested in the funds of the county council itself and the average annual yield of all investments is 3·72 *per cent.*

During the year 687,000 motoring licences were issued to the total value of £2,748,000: Ministry of Transport grants to the county in aid of road improvements and maintenance did not greatly exceed one-third of this sum.

Mr. Norman Doodson, F.I.M.T.A., F.S.A.A., county treasurer, concludes his well printed and attractive abstract with some tables showing costs at various of the county institutions.

THE LORD CHANCELLOR'S VISITORS

It is noted in a recent issue of the *County Councils Association Gazette* that a number of county councils had been asked for a list of the old people's homes in their counties for the information of the Lord Chancellor's Visitors and that some of them wondered why this request had been made. These visitors are appointed by the Lord Chancellor under s. 163 of the Lunacy Act, 1890. They are concerned with persons of unsound mind so found by inquisition but, with the Masters in Lunacy, may form themselves into a board for their mutual guidance and direction on matters connected with the visiting of persons of unsound mind. It is explained in the *Gazette* that they visit patients at the request of the Court of Protection to advise the Court upon such matters as the patients' capabilities of managing their own affairs and whether they are of testamentary capacity. Information is sought about the general condition of a patient, the circumstances in which he or she is being cared for, and the use to which any of the patient's money may be put by way of maintenance and extra comforts. One visitor is a lawyer and two are medical practitioners. Any newly appointed medical visitor must have been in actual practice. In carrying out their duties the visitors sometimes visit a patient in an old people's home in respect of whom a receiver has been appointed or is about to be appointed. It is useful, therefore, that they should have a list of homes provided by local authorities and also of the voluntary homes which must be registered with the local authority under the National Assistance Act.

DURHAM COUNTY COMBINED AREA PROBATION COMMITTEE

Staff meetings for probation officers are now arranged in many areas, and are valued because they afford officers opportunities for discussing their problems and exchanging their experiences. Sometimes the scope of these meetings is extended so as to include lectures from outside sources, thus bringing in contributions from authorities on various matters in which probation officers are interested. In the 1954 report of the principal probation officer, Mr. W. H. Pearce, for the county of Durham, it is stated that as in previous years a short series of staff lectures was arranged to which justices, magistrates' clerks, senior police officers and others interested in the work were invited. This year they will hear His Honour Judge Charlesworth, LL.D., speaking on " Probation in Quarter Sessions "; Professor F. V. Smith, Department of Psychology, Durham University, who will speak on " Educational Disabilities and Delinquency "; and Dr. R. Orton, M.D., M.R.C.P.E., D.P.M., whose subject will be " Treatment and Supervision of Sexual Offenders." Arrangements have also been made for three speakers, including a magistrate, a clerk to the justices and a probation officer, to lead a discussion on case committees.

Beyond their official duties, probation officers often do a great deal of voluntary work in their own time, from which probationers often profit. In this report we read of boys being taken to camps and of group organizations for various purposes. The activities of one organized group included carpentry, model making, drawing and painting, gardening, instructional film shows and discussions. The majority of the toys and models which are made are taken by the boys to the local children's hospital as anonymous gifts for Christmas. A talk which proved very popular was given by the local fire chief; it was later illustrated by a full scale demonstration at the fire station.

Although crime has decreased in the county, the statistics show an extended use of probation, which is a source of satisfaction to the probation officers. The figures show a slightly lower percentage of successes than in 1953. As to this Mr. W. H. Pearce suggests that one contributing cause may be the staff changes that have taken place with consequent transfers of probationers from one officer to another.

While it is customary for the juvenile courts to receive reports from probation officers before arriving at their decision, the position appears to be very different in the adult courts. In the Courts of Assize and quarter sessions, fuller use is now being made of reports which are prepared by probation officers during the period the accused is awaiting trial. In the magistrates' courts, however, the situation is almost completely reversed, for only in the exceptional case do the justices exercise their powers to remand after conviction and before sentence to enable a full investigation to be made into the background of an offender.

THE CONTROL OF ALCOHOLISM

We referred at p. 467, *ante*, to the action which is being taken in Canada and the United States to reduce the incidence of alcoholism. This matter is also receiving special attention in Sweden as a result of new legislation which will come into operation next October and is based on the report of a committee which was set up in 1946. The basic unit in the system of control of alcoholism in Sweden is the local temperance board which must be established by every local authority. The county authority has a county temperance board which may inspect the work of the local boards and may take action against individual alcoholics if the local board fails to do so. Traditionally, the board exercises social control over the effects of alcoholism by supervising the activities of any person referred to them, assisting him to rehabilitate himself and if necessary committing him to an institution for detention and treatment. In practice, the bulk of their work deals with alcoholics outside an institution. For a person to be referred to the board, he must have become chronically addicted to the abuse of alcohol and some social damages must have arisen through the abuse. This is defined as interference with the safety and security of others as well as the deterioration of the person himself. Neglect of responsibilities, becoming an economic or social liability to the community, personal misconduct or habitual drunkenness all provide a basis for referring an alcoholic to the temperance board. Cases are referred by the police, wives and families of alcoholics and sometimes by neighbours or welfare agencies. In the first stage of supervision the individual may be watched and his activities closely checked by a member of the board. For less co-operative cases, a suspended sentence of internment may be ordered and the individual must submit to certain controls over his behaviour. For the more refractory case institutional care is provided after an examination and oral hearing on behalf of the county authority. Internment is normally for one year subject to reduction on satisfactory behaviour. This period may be extended. Detention is in a State institution but recently hostels have also been established where the person is lodged while remaining in employment. Excessive drinking has in the past been controlled by rationing but this is to be abolished and, instead, a programme of public education developed.

NOTICES

The next court of quarter sessions for the county of Cheshire will be held on Monday, October 3, 1955, at the Castle, Chester.

The next court of quarter sessions for the borough of Grantham, Lincs., will be held on Wednesday, October 5, 1955, at the Guildhall, Grantham, commencing at 10.30 *a.m.*

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

HIGHWAY ACT, 1835—STOPPING UP OF HIGHWAYS

I read with interest the report in your issue of September 10, of an appeal against a proposal to stop up part of a highway to the width of a pavement which was to be enclosed as part of the adjoining property if the stopping-up order had been obtained. I note that it became unnecessary for the court in the case reported to consider whether the Highway Act, 1835, could be used to narrow a highway by stopping up part of its width.

This is of great interest to me, for in 1951 this very point was considered on an appeal to the Staffordshire quarter sessions. The circumstances were that the local authority desired to stop up part of a footpath in a side street in order to facilitate the erection of a public building. Upon the hearing before the justices the point was taken, on behalf of an objector, that the justices had no power to grant such an order in view of the terms of s. 84 of the Highway Act, 1835, under which, it was submitted, only a highway or part of a highway of its full width could be stopped up. The justices upheld this view and refused the stopping-up order. The local authority appealed to quarter sessions, who confirmed the justices' decision.

It seems clear from decided cases that on a diversion of a highway it is not necessary that there should always be an entirely new highway to effect the diversion, and that a diversion order can add pieces of land to widen the highway and stop up pieces of land which become unnecessary. In such cases it appears to me that only a part of the width of a highway is diverted, and it seems inconsistent that the interpretation of highway in the section should be capable of different opinions according to whether a stopping-up order or a diversion order is sought. It would certainly be interesting to learn if there have been successful cases where part of the width of a highway has been stopped up.

Yours faithfully,
JOHN R. RIDING.
Clerk of the Council.

Town Hall,
Willenhall,
Staffordshire.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

PHOTOGRAPHS AS EVIDENCE

It has recently been pointed out in your columns (p. 583, *ante*) that " It is certainly not true that the camera cannot lie." One could go further and say that it cannot tell the truth ! But if we accept the fact that even a good lens has to compromise with its aberrations, then we can say that a camera will give a more reliable " perspective " picture than any other means.

The camera will give a picture and will show exactly what the eye would see from the same viewpoint, which statement is immediately questioned by anyone looking at a photograph taken by an ordinary camera of a tall building, and taken by pointing the camera upwards. The lines which we all *know* are vertical, are, on the print, converging. The truth is, of course, that when looking upwards the lines *do*

appear to converge if we look critically, but the brain is more ready to accept that they are parallel, so much so that an artist would usually draw them as parallel, although he would show the parallel sides of the road leading into the distance as converging. Special cameras with such things as rising fronts and swing backs are available to tell the lie that the brain wants to accept as the truth.

The other difficulty is one of distance. We know when we see the photograph of the match that deep square leg is not *really* standing within easy reach of the bat, and the answer (which can be reached by diagrams and reasoning) is that the angle of view should be the same for the eye as for the camera. In other words, if the print is viewed from a considerable distance it will look much better. Briefly, the distance from which the print should be viewed for the eye to have the correct perspective impression, is determined by the degree of enlargement and the focal length of the lens. Thus a contact print of a nearby friend with a mountain (looking rather diminutive) in the background, taken by a 3¼ *in.*×2¼ *in.* camera, the lens having a focal length of, say, 4¼ *in.* should be viewed from a distance of 4¼ *in.* for the correct impression. As this would be rather uncomfortable, it is better to enlarge it to twice the size (linear, not area) and view it from 9 *in.*

To summarize, it could be said that an " untouched " photograph would yield a (sufficiently) true picture, but if it can be presented with understanding there will be less need for the conscious part of the brain to make allowances for the habit-trained part. Usually of course, the value of a photograph in a suitable case is indisputable, and it is not suggested that the rules of acceptance should be too stringent. Indeed, I should like to be present if the clerk were to ask the person submitting a photograph to state the distance from which it should be viewed !

Yours faithfully,
K. B. SANDERSON.

Lloyds Bank Chambers,
18 Week Street,
Maidstone, Kent.

"BREAD AND CHEESE—AND KISSES"

Romance flourishes in unexpected places. It will be a surprise to many people to learn that that worthy and essential but prosaically named body—the Tyne Improvement Commission—assists each year at a function which delectably combines business with pleasure. Among its statutory duties is included an annual survey of the river from mouth to source. The austerity of statute law has not, however, completely superseded the indulgence of ancient usage; both are happily wedded in an agreeable tradition, which is regularly observed. The Commission's Chairman, when the westerly limit of the survey has been reached, has the privilege of kissing the first maiden he sees upon the bank, and of presenting her with a golden sovereign as a memento of the occasion.

Whatever the origin of this pleasing custom, there is something symbolic about it. For 65 of its 80 miles' course the Tyne, rising at the south-west end of the Cheviot Hills, flows through wooded valleys of great beauty. Picturesque Allendale is on its southern reaches, and the charming towns of Alston and Hexham stand upon its banks. Downstream from Corbridge the character of the river changes. Collieries and industrial cities line its course—Newcastle, Wallsend and North Shields on the Northumbrian side; Gateshead, Jarrow and South Shields in County Durham. Voyagers who have suffered on the rough North Sea crossing from Scandinavia, and strained their eyes longingly for the first sight of English shores, are dashed from the heights of hope to the depths of depression. For they find themselves on arrival (usually at some unearthly hour on a dark, wet morning) at the ultimate desolation of the Tyne Commission Quay, comprising a landing-stage, a customs-examination shed, some railway sidings, and a bleak platform where they face a three hours' wait for the London train.

The Commissioners, in their annual survey, reverse this *descensus Averni*. Starting from the river-mouth they proceed up-stream, past the busy cities that sprawl along the estuary, presumably averting their eyes (so far as is consonant with their duties) from factories, shipbuilding-yards, towering slag-heaps and reeking chimneys, to the quiet of the market-towns and the delights of the clear stream meandering through the wooded dales. Then at last comes the pleasurable excitement of the romantic quest, and the wild kiss from the Naiad on the western bank. With what eagerness, after so long and tiresome an Odyssey, is that precious instant awaited ! A temptation resisted (as some cynic has remarked) is a joy to come; and the strain of passing, with downcast eyes, unkissed, the girls of Gateshead, the nymphs of Newcastle and the sirens of South Shields is amply compensated by that blissful moment in the asphodel meadows below the Cheviots, where the lips of Charmer and Chairman meet lightly in delicate contact. Julia, in *The Two Gentlemen of Verona*, has described such progress in memorable words:

> " The current that with gentle murmur glides,
> Thou know'st, being stopp'd, impatiently doth rage;
> But when his fair course is not hinderèd
> He makes sweet music with th' enamell'd stones,
> Giving a gentle kiss to every sedge
> He overtaketh in his pilgrimage."

This year, however, the sweet music of the Commissioners' pilgrimage has been marred by discord, and the enamelled stones have served only as obstacles to stub their toes. This is no mixed metaphor, for this year a Miss Mabel Stubbs was the maiden on the bank who received the sovereign and the kiss. Miss Stubbs lives at several miles' distance from the kissing-place, but is in the Commissioners' employ. Not unnaturally (as *The Times* reports) loud objections have been raised by the local girls. Far be it from us to raise even the shadow of an innuendo against what may be called the system of working—still less against the attractions of the lady in question, who, we doubt not, is as kissable as any other fair loiterer upon the banks of the stream. But it has been stated on high authority that justice must not only be done but must manifestly be seen to be done, and what to the outside observer might appear (however unjustifiably) as a sort of osculation *ex officio* is to be deplored. Nobody has said it in so many words, but the suggestion seems to be implied that it was not entirely by chance that Mabel found herself, at that particular moment, at the *locus in quo*. It is one thing to keep up a tradition which, properly observed, carries the wistful nostalgia of " snatch a kiss and part "; it is quite another matter to import into the situation the robust boldness of Sir Walter Scott's lines:

> " A man may kiss a bonnie lass,
> And yet be welcome back again "—

welcome indeed, yet at the same time, perhaps, embarrassed, when the next meeting with the bonnie lass is liable to occur in the prosaic precincts of the board-room.

For the tradition in its original form there is a famous precedent. Richard Wagner, in the last Act of *Siegfried*, has depicted the hero's journey, from the dark smithy where his sword was forged, through the wooded valleys of the rolling

Rhine, to the hill where Brünnhilde slumbers, a prize for the first man to reach her side. Siegfried awakens her with a kiss and gives her, not (of course) a sovereign, but the golden Niebelung Ring. Although there is no actual reference, in so many words, to a Rhine Improvement Commission, there is evidence of the existence of an analogous body in the persons of the three Rhine-daughters, who form a sort of Committee of Management. So far the parallel is almost complete; but we have searched the score in vain for any indication of Brünnhilde's employment by any board, statutory or otherwise, with which Siegfried is connected. As a qualified Valkyrie (though no longer in practice) she was doubtless prohibited by the etiquette of her profession from engaging in any sedentary occupation.

The dangers of departing from established precedent are clearly shown by the sequel to the recent episode on Tyneside. At the next meeting of the Commission a member insisted that the Minutes should record the occurrence we have described. It had become, he said, the subject of some controversy; on being overruled, he warmed to his theme and proceeded to describe what had happened as "a matter of national importance." This provoked loud cries of dissent. The Secretary opined that he ought to record "formal matters, not traditional"; another member expressed regret that the question was being elaborated in a manner suited only to "what is called 'the silly season'." The Chairman, who had intended to make a personal statement, became indisposed and had to leave. Finally, a motion that the matter be not further discussed was carried by 13 votes to 3.

There, for the moment, the controversy rests. All persons of goodwill must hope that harmony may be restored, both within the Commission and among the feminine part of the population it serves. We can only trust that, the next time the tradition falls to be observed, there will be no more than a faint memory of these present discontents; perhaps we may, without impertinence, remind the protagonists of Tennyson's comfortable words:

"O, we fell out, I know not why,
And kiss'd again with tears,
And blessings on the falling out
That all the more endears,
When we fall out with those we love
And kiss again with tears!"

A.L.P.

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PERSONALIA

APPOINTMENTS

Mr. Joseph S. Mills, clerk to Woodhall Spa, Lincs. urban district council, has been appointed clerk to Blackrod, Lancs., urban district council, succeeding Mr. Arthur Pearson, whose new appointment at Carnforth was reported in our issue of August 27, last.

Mr. J. R. Davison, formerly second assistant solicitor in the town clerk's department of Hastings county borough council, has been promoted to first assistant solicitor in the place of Mr. G. M. Nightingale who left the council's service on August 28, last, to take up the appointment of assistant solicitor (prosecutions) at Southampton. Mr. Nightingale came to Hastings from Exeter on April 2, 1951.

Mr. Douglas Leeming, LL.B., of the town clerk's office, Northampton, has been appointed senior assistant solicitor to the Doncaster, Yorks., corporation. Prior to his appointment as assistant solicitor at Northampton, Mr. Leeming was assistant solicitor with the Doncaster corporation.

Mr. P. W. Levens, assistant solicitor with Huyton-with-Roby, Lancs., urban district council, was appointed assistant solicitor for the borough of Grantham, Lincs., in succession to Mr. D. O. Pepper, who has taken up a similar appointment at Gillingham, as reported in our issue of July 23, last.

Mr. J. D. Witty, M.A., formerly assistant solicitor with the Hornsey borough council, N.8, has been appointed senior assistant solicitor with the council. Mr. Witty has previously served with the Beverley, Yorks., borough council and the Essex county council. He succeeds Mr. D. B. Cooper, LL.B., who has been promoted to the position of deputy town clerk. Mr. Cooper had been senior assistant solicitor with the council since 1946.

Mr. E. A. Everett is the new registrar of Shoreditch, E.C.1, and Kingston-on-Thames, Surrey, county courts.

Mr. G. W. Hemsley, who has been a probation officer at Enfield, Middx., court, since 1941, has now been appointed senior probation officer for the Edmonton division of Middlesex.

Mr. A. N. L. Stuttle and Mr. C. J. Marsh, formerly Home Office trainees, have now been appointed probation officers in the Middlesex area.

Mr. H. J. S. Larkworthy has been appointed full-time probation officer for part of the borough of Luton, Beds., and will take up his duties on September 19. Mr. Larkworthy is 34 years of age and has recently completed the Home Office course of training as a probation officer. Although Mr. Larkworthy replaces Mr. Hayes, who is now a probation officer in Grimsby, Lincs., he will not be serving the area formerly served by Mr. Hayes, but the area stated above.

Transfers and promotions in the prison service announced recently include:

Mr. Alan Bainton, governor of Oxford prison, to Stafford prison; Mr. D. Enders, deputy governor of Maidstone prison, to succeed Mr. Bainton; Mr. Rundle Harris, governor of Shrewsbury prison, to be governor of Exeter prison; Mr. P. A. M. Heald to succeed Mr. Harris at Shrewsbury—he is at present assistant governor of Liverpool prison.

Mr. H. H. Kennedy, A.I.M.T.A., deputy borough treasurer for Evesham, Worcs., has been recommended for appointment as borough treasurer in succession to Mr. S. Geary, F.C.I.S., who is to retire on December 31, after 40 years' service.

OBITUARY

We announce with regret the death at the age of 51 of His Honour Judge T. M. Backhouse, O.B.E., T.D.

Thomas Mercer Backhouse was born in 1903 the second son of Harry Backhouse of Balderstone, Lancashire. He went to Denstone and afterwards on an open History scholarship to Selwyn College, Cambridge. Called to the bar by Gray's Inn in 1926 he practised on the Northern Circuit. Backhouse was a keen Territorial soldier and in 1926 was commissioned into the East Lancashire Regiment. At the outset of the 1939 War he went to the Judge-Advocate-General's branch and by 1945 had become colonel in charge of the War Crimes section of the British Army of the Rhine. In that capacity he opened the prosecution in the Belsen and Auschwitz trials.

In 1953 he became a county court Judge on Circuit 18. He was an honorary colonel of the 42nd (Lancashire) Infantry Division.

Judge Backhouse leaves a widow and a son and two daughters.

Major Ernest Radcliffe Cockburn, C.B.E., who was chief constable of Ayrshire and then of Hampshire for many years, has died at the age of 79. From 1919 to 1928, he was chief constable of Ayrshire, and of Hampshire from 1929 to 1942. He was made O.B.E. in 1918 and promoted C.B.E. in 1938.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Employment—"Person to whose act or default the contravention is attributable"—Position of parent.*

An employer is charged with employing a child under 14 years of age contrary to byelaws made under s. 18 of the Children and Young Persons Act, 1933. The parent of the child is charged as a person by whose act or default the child was employed contrary to the byelaws. Section 21 of the Children and Young Persons Act, 1933, provides that if a person is employed in contravention of any provisions of s. 18 or of the provisions of any byelaws made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be liable on summary conviction to a fine. Section 22 specifically makes it an offence for a parent to "allow" a child to take part in entertainments but this is not the case in s. 21.

I should be grateful for your opinion as to whether the words "and any person to whose act or default the contravention is attributable" in s. 21 would include a parent who permits his child to be employed contrary to the byelaws. S. HIRLE.

Answer.

Section 18 deals with employment and s. 22 with taking part in entertainment. Section 21 refers to employment and obviously applies to s. 18 but not necessarily to s. 22. In our opinion, a parent may be liable to conviction as a person by whose act or default an offence is attributable. He might, for example, mislead an employer by a false statement about the child's age, or he might agree with the employer to let the boy work for him in disregard of the law, and this permitting would be an act or default to which the offence might be attributable.

2.—Elections—*Schools as polling places.*

Rule 22 of the Parliamentary Election Rules and r. 18 of the Local Election Rules contained in sch. 2 to the Representation of the People Act, 1949, provide that the returning officer may use, free of charge, as a polling station, a room in a school in receipt of a grant or in respect of which a grant is made out of moneys provided by Parliament.

There can be no doubt that r. 22 and r. 18 apply to county schools which are owned and run by the local education authority. Do they apply to the following:

(*a*) a direct grant grammar school;
(*b*) a voluntary controlled school;
(*c*) a voluntary aided school;
(*d*) a transitionally aided school;
(*e*) a building owned by the trustees of the Congregational Church and used as a Sunday school, which is also used under a written licence from Mondays to Fridays as a county primary school, when the election is (i) on a Thursday, (ii) on a Saturday.

My main difficulty is in the meaning of the word "school." I take the view that it refers to the building itself and not to the educational facilities provided, *e.g.*, equipment and teachers' salaries, so that cases (*a*) and (*e*) would be excluded from the rules. If I am correct, how do cases (*b*), (*c*) and (*d*) above differ from case (*e*), if no work of repair and no improvement or alteration which would rank for grant is carried out in the year of the election? In other words, do the rules refer only to schools in receipt of an annual grant, or do they also apply to schools where the grant has been made sometime in the past, or where a grant may be made in the future when circumstances warrant it?

B. "JOHNIAN."

Answer.

Your view of the primary question of law is certainly apt to class (*b*) in each of the rules quoted, *viz.*, "a room the expense of maintaining which is payable out of any rate." We find it rather less easy to accept in relation to class (*a*) in each rule. The word "school" can, quite correctly, be applied to the structure or to the institution: "the school was founded by Queen Elizabeth I" or "the school was destroyed by a German bomb." It is, strictly, nonsense to say that the structure is "in receipt of a grant," though you can properly say that in respect of the structure a grant is made (to the governors or as the case may be), just as you can say that somebody receives a grant "in respect of" (*anglice*, to help pay for) the cost of salaries, books, etc.

So far, and strictly as a matter of construction of the statute, we think an argument in favour of the widest possible interpretation can be constructed, *i.e.*, that the enactment covers every school other than those entirely independent of parliamentary money. But on the whole, and particularly by reason of the history of this legislation, we are inclined to accept your view of the main question. The enactment has survived practically unaltered from s. 6 of the Ballot Act, 1872, when Parliament would obviously be thinking of the system established in 1870. It has been repeated, with no indication that its scope was intended to be increased by the changes made meanwhile in the parallel educational statutes.

On this view, we should similarly regard the enactment as limited to cases where there is an annual grant.

3.—Housing Act, 1949, s. 4—*Security comprising two houses.*

B submits an application in principle to my council stating that as tenant of a dwelling-house in this town he has an opportunity of purchasing it, but that his landlord who is also owner of the adjoining house stipulates that B must purchase the adjoining property as well. The application having been approved in principle the council receive from B a form of application for a loan under s. 4 of the Housing Act, 1949, for a loan of £1,200 for purchase of both houses. It is to be stated that B has paid two valuation fees, one in respect of each of the two houses.

Your opinion is asked:

1. Whether this loan should constitute one advance under the section, so that the acquisition of both houses by the purchaser may be secured by execution of one mortgage deed, or

2. Whether the section requires that a separate mortgage deed be executed in respect of each of the two properties.

BORTHAN.

Answer.

We do not think the section requires separate mortgages. Although subs. (4) speaks of "the house," for the purpose of a statutory limitation of value (presumably, the value of any one house), subs. (3) (*b*) speaks of the mortgaged security in the case of a house or houses to be acquired.

4.—Housing Repairs and Rents Act, 1954—*Certificate of disrepair—Revocation—Date of operation.*

Upon application made in pursuance of the provisions of s. 26 (1) of the Housing Repairs and Rents Act, 1954, my council gave to a tenant a certificate in the prescribed form that the dwelling-house rented by him failed to fulfil either or both of the conditions referred to in the said subs. (1), which operated as a bar against the landlord to receive payment of a repairs increase as provided for in s. 25 of the Act. As provided for in s. 26 (1), this certificate was deemed to have been in force as from the application therefor. The landlord having executed to the satisfaction of the local authority the works required to be executed, the dwelling-house now fulfils both the conditions justifying an increase of rent and the landlord has made a application for revocation of the disrepair certificate. This application is dated 24th *ultimo*. My council's meetings are held monthly, and they have not delegated to any of their committees their powers to grant or revoke a certificate of disrepair. Their last meeting was held on the 23rd *ultimo* and their next meeting will be held on the 23rd *instant*, and upon this latter date the revocation of the certificate will be authorized subject to the appropriate recommendation of their committee being adopted. Attention is drawn to the words used in subs. (1): "and the certificate shall be deemed to have been in force as from the application therefor" and to the fact that no similar wording is incorporated at subs. (4) in regard to an application for revocation. Does the revocation of the certificate of disrepair operate from the date of the council's decision, in this case the 30th *instant*, or from the date of application therefor?

BORSAL.

Answer.

We see no alternative to the conclusion, harsh as it is, that the certificate must remain in force until the council's meeting.

5.—Legal Aid and Advice—*Appeal from magistrates' court by Case Stated.*

We should like to have your opinion as to whether legal aid is available for a defendant whose case has been dismissed by the magistrates when the prosecutor has applied for a case to be stated. The question is, whether the defendant can have legal aid in connexion with the hearing of the case by the High Court. We shall be greatly obliged if you will quote the authority for your opinion. SAUSTA.

Answer.

In our opinion there is power to grant legal aid for the purpose of the High Court hearing, on the ground that this is a proceeding in the Supreme Court, Legal Aid and Advice Act, 1949, s. 1 and sch. 1, part 1. The magistrates' court cannot exercise any power in the matter.

6.—Music, etc., Licence—*Application—Premises used as dance club on Sundays—Jurisdiction.*

Our client, Mr. R, is the occupier of the Gaiety ballroom in this city and the proprietor of the Gaiety dance club, which meets for the purpose of dancing on three nights during the week and also on Sunday. Part IV of the Public Health Act, 1890, has been adopted by the local authority, and our client has now applied for an annual music and dancing licence so that he may convert the ballroom into a public dance hall, but it is intended that the club shall continue to use the premises for dancing on Sundays as in the past.

In making the application our client stated frankly to the licensing justices that this was his intention, and the police have now objected to the grant of the licence on the grounds that Mr. R would in fact be getting the best of both worlds, that is, by using the ballroom for public dancing during six days of the week, and in effect evading the statute by using it for dancing by his club on the Sunday evening.

It is understood that in other towns public dance halls are used by clubs for Sunday dancing, but this is the first occasion on which the matter has come before the licensing justices in this city. In stating his objection the chief constable referred to s. 51 of the Public Health, etc., Act, 1890, and submitted that the words "ordinarily used for public dancing or music" means that the regulations equally apply to the use of the premises on Sunday, and that it would be a breach of the conditions for the premises to be used by a club on Sunday, and, therefore, the justices would be exceeding their jurisdiction if they granted a licence knowing full well the premises would be used on a Sunday by a dance club.

We believe that the justices are sympathetic to Mr. R's application, but they will not grant the licence if by so doing they would be exceeding their jurisdiction.

Mr. R's attitude is that if he cannot continue to run the Sunday club he does not want a public music and dancing licence.

Our contention is that the justices have no jurisdiction over what happens on a Sunday, and that if the premises are used by a club on Sunday, and providing that the club is properly run and constituted, there can be no possible objection from any source.

ORAD.

Answer.

We do not doubt that the justices have jurisdiction to grant the licence: it seems to us that the police objection is to the merits of the application rather than to jurisdiction.

By s. 51 (2) of the Public Health Acts Amendment Act, 1890, it is for the justices, when granting the licence, to determine the terms, conditions, and restrictions subject to which it is granted, and there can be no question of a breach of a condition until that condition has been attached. Possibly, there is a "common form" condition attaching to licences in the area that the premises shall not be used for dancing on Sundays, but the justices have complete discretion in the matter: they need not attach such a condition to this licence. The application is for a music and dancing licence to which no condition relating to Sunday attaches: and it is this application which stands or falls on its merits.

A Practical Point in our vol. 116 at p. 110, as amplified in a "Note of the Week" at p. 240, is of interest.

7.—Private Street Works—*Incorporation of older footpath in private street.*

I was interested to read the article at p. 232, *ante*. A point has arisen in this district upon which your article may have a bearing.

It is this: the council are about to make up a private street under the Private Street Works Act, 1892. The street was laid out as such about 40 years ago and it is neither sewered nor made up. Some of the frontagers contend that there was, many years ago, a public footpath along a part of what is now the street. I have always understood that in a case such as this the street is not repairable by the council, and could therefore be made up under the 1892 Act, unless the footpath could be proved to have been in existence before the Highway Act, 1835, came into force. If this path existed before the 1835 Act then, in making up the street now, an allowance would in effect have to be given for the area of the old path as it is in no way comparable with the whole area of the present private street. But if a public footpath came into existence after the 1835 Act, I have always assumed that a local authority could succeed in their proposals to make up and sewer the whole of the new street under the 1892 Act.

As I read your article I gather that the case of *Richmond Corporation* v. *Robinson and Others* [1955] 119 J.P. 168, would not apply: where an old footpath is incorporated in a new street you do not find any decision under the Private Street Works Act, 1892, which is inconsistent with the newly reported case.

If you could refer me to any authority which states that, even if there were a public footpath coming into existence after the 1835 Act and then being replaced by a new street, the whole width and length of the new street is caught by the 1892 Act, I should be extremely grateful.

ACON.

Answer.

There are "further thoughts" by an outside contributor at p. 424, *ante*, but we have not been able to find a decision which really helps, and it is within our knowledge that counsel with special experience of these matters take opposing views. There are possibly distinguishable cases. The pre-existing footpath may now form the footway of the new street, and be perfectly recognizable as its old self in its new guise. Or it may have been swallowed up, possibly having been under what is the new carriageway, so that nobody can say exactly where it used to run. We infer that this may be your case.

In the former case it is comparatively easy to argue that the surface of the piece of land constituting the old (and new) footpath is vested in the highway authority, and that not only must they exclude it from the new street for purposes of the Act of 1892 but they are themselves frontagers upon it. Counsel against the local authority argued this strongly in the *Richmond* case and quarter sessions agreed with him, but the facts were much stronger in his favour than will usually happen.

Where the old footpath has become merged and unrecognizable, this proposition is much harder to maintain, though we know that some counsel believe it to represent the legal position.

We do not think for the present purpose it makes any difference whether the old footpath came into existence before or after 1835.

We throw out for consideration the following suggestions:

(i) that the *Richmond* decision might be held by the Divisional Court to apply where the old footpath still ran along the same line and was recognizable, beside the newly formed carriageway, although this cannot be regarded as certain;

(ii) the decision would be less likely to be held applicable when the old footpath had been completely merged. The part of the doctrine which holds the council to be frontagers in respect of the old footpath becomes almost fantastic in this case;

(iii) even in this second case, the court might hold that credit must be given to the frontagers, for the fact that the council are including a strip (albeit an unrecognizable strip) for which they were already liable—though it is hard to forecast how this credit would be worked out.

We cannot offer these suggestions with much confidence; the law is surprisingly obscure, and if the case came to trial it might go either way.

Counsel for the Defence

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